

REMARKS

The present Amendment amends claims 7 and 9, leaves claim 8 unchanged, cancels claims 1-6 and 10 and adds new claims 11-20. Therefore, the present application has pending claims 7-9 and 11-20.

Applicants acknowledge the Examiner's indication in paragraph 6 of the Office Action that claims 7-9 were allowed.

It should be noted that new claims 11-20 depend directly or indirectly from claims 7-9. Therefore, new claims 11-20 are allowable being that they depend from allowed base claims 7-9.

Claims 1-6 and 10 stand rejected under 35 USC §102(e) as being anticipated by Sanada (U.S. Patent No. 6,484,245). As indicated above, claims 1-6 and 10 were canceled. Therefore, this rejection is rendered moot.

It should be noted that the rejection of claims 1-6 and 10 under 35 USC §102(e) is inappropriate since the subject matter of claims 1-6 and 10 is not disclosed (anticipated) in Sanada as alleged by the Examiner. A more appropriate rejection may have been based on obviousness. However, as per 35 USC §103(c) such a rejection is inappropriate. 35 USC §103(c) states that:

“subject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person”.

Both Sanada and the present application were, at the time the invention of the present application was made, owned by Hitachi, Ltd., the Assignee of both Sanada and the present application.

However, in order to expedite prosecution of the present application claims 1-6 and 10 were canceled and are being submitted as part of a continuation application being filed on even date herewith. The Examiner is respectfully informed that the above applies in the continuation application.

In view of the foregoing amendments and remarks, Applicants submit that the present application is now in condition for allowance based on claims 7-9 and 11-20. Accordingly, early allowance of claims 7-9 and 11-20 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (520.38682X00).

Respectfully submitted,

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